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An exclusive report on the U.S. Environmental Protection Agency

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DEVELOPMENT, SENATORS MEET WITH ADMINISTRATION TO DISCUSS CAA CHANGES

Senate Environment Committee senators have begun a series of regular meetings with Administration officials and have for the first time this session opted to discuss an agreement on clean air issues, Senate sources say. Though most see the development as significant, Administration and Senate sources are divided on whether the talks will bear fruit (see related story). Many Senate staffers were previously disgruntled that the White House failed to consult them when drafting the Administration bill until the eleventh hour. And the Senate, unlike the House, began its markup last week without discussing substantive clean air issues with the Administration, setting the stage for a face off with the White House later in the process. (The House used the Administration's bill as the markup vehicle, while the Senate is proceeding with its own legislation.) But last week Senate Majority Leader George Mitchell (D-ME) began discussions with White House Chief of Staff John Sununu, hoping first to reach agreement on an acid rain bill, the area where the Senate and the Administration see eye-to-eye, say Senate sources. A Mitchell aide, though

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DINGELL BLASTS OTA SUPERFUND REPORT FOR EMPHASIS ON 'SPECULATIVE STATISTICS'

Powerful House Energy & Commerce Committee chair John Dingell (D-MI) has sharply criticized a recently released Office of Technology Assessment report on Superfund for its overreliance on "speculative statistics." The comments came in a letter from Dingell to OTA director John Gibbons on last week's lengthy OTA critique of Superfund, charging that between 50% and 70% of industry and EPA funds are being spent inefficiently (see related story). Dingell, along with EPA, has taken exception to these figures, arguing that they will overshadow the constructive aspects of the study. OTA officials will only say that Superfund is a very controversial subject, and "it's not surprising that Mr. Dingell does not agree with everything contained in the report."

Dingell, in an Oct. 17 letter, says that although there is an overwhelming consensus among all parties that Superfund could make more efficient use of its resources, the report has not presented "persuasive evidence" to support its conclusion that 50% to 70% of Superfund spending by government and industry is

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SUPERFUND PLAN FOR LEAD-IN-SOIL CLEANUP SEEN AS UNPROTECTIVE BY SOME IN EPA

EPA's office of emergency & remedial response has issued interim guidance for setting cleanup levels for lead at Superfund sites that some OERR staffers says may put the public at risk, because it is based on outdated scientific information. EPA officials have denied these charges and defend the guidance as the best policy available to the agency right now. The guidance was issued following the persistent urging of EPA's regional offices, which have long sought headquarters direction on cleaning up lead-in-soil at Superfund sites. The guidance is only meant to be temporary as agency officials develop specific cleanup standards -- not expected until sometime next year. The controversial proposal stands as the first written EPA policy statement on the lead cleanup issue.

The interim cleanup level for lead is 500 to 1,000 parts per million, according to the Sept. 7, 1989 memo, obtained by Inside EPA. Both the office of emergency & remedial response and the office of waste programs enforcement consider the level "protective for direct contact at residential settings," the guidance

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says. The level is to be used when using both federal and private cleanup money. agreed to in records of decision do not have to be revised to meet the standards in the memo says.

The memo was "disappointing," says one source with the Superfund program. The cleanup standard is "extremely lenient," and is based upon the recommendation made by the Centers for Disease Control in 1985. CDC says that lead in soil and dust contributes to increased blood lead levels when concentrations of lead in dust and soil exceed 500 to 1,000 ppm. The CDC level is "a stab in the dark" and is "not defensible based on the low level effects we're finding now," the source adds. "You'd think they'd be more conservative and choose the lowest level" of 200 ppm that EPA has used in cleaning up sites, says an agency source. "The compound [lead] is potentially more toxic than previously understood, and may even be carcinogenic," the source says.

"This is the best we have today," says an EPA official, noting that the Superfund office is working with agency and CDC scientists to develop numerical standards for lead carcinogenicity and neurobehavioral effects. "It isn't lenient," insists one source with Superfund, unless "you're looking at background levels," which could be as low as 50 to 20 ppm. But cleaning up to background -- the naturally occurring levels of a substance -- is very difficult and expensive. Currently, the Resource Conservation & Recovery Act corrective action program uses background levels as cleanup targets because the agency does not have another numerical standard. "We've had cleanup levels all over the lot," says one Superfund staffer, pleased that the program has put the acceptable cleanup level in writing. Cleanups at sites have been site-specific, but the new guidance will bring some national consistency to the program, the source says.

ECKART TO EXAMINE EFFECTS OF EPA UST FINANCIAL RULES ON SMALL BUSINESSES

Rep. Dennis Eckart (D-OH) will hold a hearing next week to examine the effects of EPA's underground storage tank financial responsibility requirements on small business owners -- the first hearings to be held on the issue this session of Congress. Tank insurance is considered by most parties following the issue to be generally unavailable and prohibitively expensive. There has been mounting pressure on EPA and Congress to delay upcoming deadlines for insurance compliance. But EPA says that it does not have the authority to take such action, and Congress has been unable to reach consensus on any action (*Inside EPA*, Sept. 22, p2). The hearing is expected to be significant as it closely follows an upcoming EPA compliance date, Oct. 26, where tank owners of 100-999 tanks must purchase pollution liability insurance. While Eckart's hearing may be too late to impact the impending October deadline, it may affect an April 15 compliance date -- where owners of 99 or fewer tanks are required to have insurance. Eckart will hold hearings in his Small Business antitrust, impact of deregulation & privatization subcommittee.

In an Oct. 23 press statement, Eckart said that "it is difficult for small businesses to secure insurance coverage for their underground storage tanks." He said that small businesses fear that the upcoming EPA deadlines may force them to close. The hearing, slated for Oct. 31, will focus on the availability and affordability of insurance and other financial assurances, such as state trust funds; compliance with EPA UST financial responsibility rules; and enforcement of these rules by EPA and states. Some in Congress have been critical of EPA's plans to enforce the new insurance requirements, arguing that their plan to use discretionary enforcement will result in an unfair, subjective policy (*see related story*). Eckart also plans to probe the effects of EPA's enforcement strategy on small businesses.

Witnesses at the hearing will include representatives from EPA, the General Accounting Office, the Environmental Defense Fund, the state of Florida, insurance companies and the small business community.

SENATE CONFIRMS EPA WATER, GENERAL COUNSEL CHIEFS. The Senate Environment & Public Works Committee on Oct. 23 approved Administration nominees for two EPA slots: the Office of General Counsel and the Office of Water. E. Donald Elliott, who most recently was a Professor of Law at Yale University, was confirmed to be General Counsel. LuJuana Wilcher was approved for the water slot. Wilcher was a partner at the Washington, D.C. office of the Kentucky-based law firm, Bishop, Cook, Purcell and Reynolds. The Senate now has only two Administration candidates left to approve: Don Clay for the Office of Solid Waste & Emergency Response and James Strock for the Office of Enforcement & Compliance Monitoring.